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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,285	11/19/2003	David M. Stravitz	03568/LH	9501
1933	7590	04/13/2006	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC			DAVIS, CASSANDRA HOPE	
220 Fifth Avenue			ART UNIT	PAPER NUMBER
16TH Floor				
NEW YORK, NY 10001-7708			3611	

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/717,285	STRAVITZ, DAVID M.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Cassandra Davis	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-45 is/are pending in the application.
  - 4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.
- 5) Claim(s) 42 and 43 is/are allowed.
- 6) Claim(s) 3, 4, 6, 7, 41, 44, 45 is/are rejected.
- 7) Claim(s) 1,2,5 and 8-16 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### ***Election/Restrictions***

1. Claims 17-40 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on February 3, 2005.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

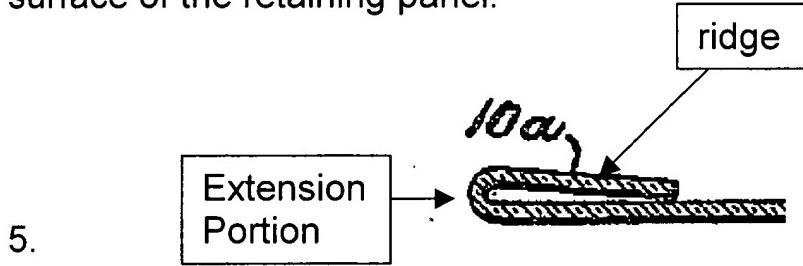
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 41 is rejected under 35 U.S.C. 102(b) as being anticipated by Oxley, U. S. Patent 2,434,860.

4. Oxley teaches a frame/easel assembly for displaying a planar object P. The frame/easel including a retaining panel 10 and a rear panel 11b, wherein the retaining panel 10 is spaced from the rear panel 11b to define a space there-between for receiving the picture P to be displayed. Oxley also teaches that both the retaining panel 10 and the rear panel 11b are

made of transparent material. The retaining panel 10 taught by Oxley has a substantially planar central portion and retaining members 10a formed along side edges and retaining member 10b form along the upper edge of the central portion. Each of the retaining members including an extension portion extending rearward relative to the planar central portion and a projecting ridge formed on the extension portion and extending inwardly, part of the rear panel being arranged to fit between the ridges and a rear surface of the retaining panel.



6. Claim 44 is rejected under 35 U.S.C. 102(b) as being anticipated by Lawrence, U. S. Patent 4,296,561.

7. Lawrence teaches picture frame assembly for displaying a picture comprising a retaining panel 12 and a rear panel 11. The retaining panel 12 is spaced from part of the rear panel to define a space there between for receiving an object to be displayed, wherein the retaining panel 12 has a transparent area 40 for viewing the picture. In addition, the retaining panel

12 has a substantially planar central portion 40/21 and retaining members 13 extending along the entire length of the top and bottom edges thereof. Each of the retaining members includes an extension portion 50 extending rearward relative to the substantially planar portion 21/40 and a projecting ridge 51 formed on the extension portion and extending inwardly. See figures 2 and 4. The ridges 51 extend across the entire length of the first and second retaining members. The upper and lower edge of the rear panel is arranged to fit between the ridges and a rear surface of the retaining panel 12.

8. Claim 45, 3, 4, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Reinhard, U. S. Patent 6,209,248.

9. Reinhard teaches picture frame assembly for a picture 40 to be displayed comprising a retaining panel 22 and a rear panel 24, wherein the retaining panel 22 is spaced from the central portion 36 of the rear panel to define a space 60 there between for receiving a picture 40 to be displayed. The retaining panel is made of transparent material or has a transparent central portion 26 for viewing the picture 40. In addition, the retaining panel has a substantially planar central portion 26 defining a plurality of edges and retaining members 28 arranged on all of the edges, with only one

retaining members situated on each edge. The retaining members 28 each extending along the entire edge portion if each edge, wherein each retaining member includes an extension portion 44 extending rearward relative to the substantially planar portion and a projecting ridge 48 formed on the extension portion and extending inwardly. The boarder part 38 of the rear panel being arranged to fit between the ridges 48 and a rear surface of the retaining panel.

10. Claims 45, 3, 4, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Reim, U. S. Patent 4,212,122.

11. Reim teaches picture frame assembly for a picture 8 to be displayed comprising a retaining panel 11 and a rear panel 10, wherein the retaining panel 11 is spaced from a part of the rear panel 10 to define a space there between for receiving a picture 8, transparent panel 7, and compressible insert 9 to be displayed. The retaining panel has a transparent central portion/opening for viewing the picture 40. In addition, the retaining panel 11 has a substantially planar 13 defining a plurality of edges and retaining members 14 arranged on all of the edges, with only one retaining members situated on each edge. The retaining members 14 each extending along the entire edge portion if each edge, wherein each retaining member

includes an extension portion 14 extending rearward relative to the substantially planar portion and a projecting ridge 16 formed on the extension portion and extending inwardly. The peripheral edges of the rear panel 10 being arranged to fit between the ridges 16 and a rear surface of the retaining panel.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 45, 3, 4, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reim in view of Vogelee, U. S. Patent 3,918,187. Reim teaches the claim invention except for the transparent area for viewing the picture. Vogelee teaches a picture frame 10 comprising a frame 12 having a central opening with a transparent member 32 welded to the frame and a backing member 14. The frame 12 has retaining members 30a, 30b, and 28 extending from the frame member and adhesive pad 42 for mounting the frame upon a vertical surface. It would have been obvious to one having ordinary skill in the art at the time this invention was made to

provide a means to view the picture mounted therein as well as protect the picture for damage.

***Allowable Subject Matter***

14. Claims 42 and 43 are allowed.
15. Claims 2, 5, 8-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

16. Applicant's arguments with respect to claims 41, 44, and 45 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Cassandra Davis  
Primary Examiner  
Art Unit 3611

CD  
March 17, 2006